

AG Contract No. KR96 0281TRN  
ADOT ECS File JPA 96-13  
Project No. STP-GUA-0(5)P  
TRACS No. 0000MAGUA SS364 01C  
Section Avenida Del Yaqui  
Calle Sonora - Highline Canal

INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
THE STATE OF ARIZONA  
AND  
THE TOWN OF GUADALUPE

THIS AGREEMENT is entered into 8 March, 1996,  
pursuant to Arizona Revised Statutes, Sections 11-951 through 11-  
954, as amended, between the STATE OF ARIZONA, acting by and  
through its DEPARTMENT OF TRANSPORTATION (the "State") and the  
TOWN OF GUADALUPE, acting by and through its MAYOR and TOWN  
COUNCIL (the "Town").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes  
Section 28-108 and 28-112 to enter into this agreement and has by  
resolution, a copy of which is attached hereto and made a part  
hereof, resolved to enter into this agreement and has delegated to  
the undersigned the authority to execute this agreement on behalf  
of the State.

2. The Town is empowered by Arizona Revised Statutes Section  
48-572 to enter into this agreement and has by resolution, a copy  
of which is attached hereto and made a part hereof, resolved to  
enter into this agreement and has authorized the undersigned to  
execute this agreement on behalf of the Town.

3. Congress has authorized appropriations for, but not  
limited to, the construction of streets and primary, feeder and  
farm-to-market roads; the replacement of bridges; the elimination  
of roadside obstacles; and the application of pavement markings.

|   |
|---|
| NO. <u>20570</u>                            |
| FILED WITH SECRETARY OF STATE               |
| Date Filed <u>03/08/96</u>                  |
| <u>James Lee Hull</u><br>Secretary of State |
| By <u>Vicky Greenwood</u>                   |

4. Such project within the boundary of the Town has been selected by the Town; the field survey of the project has been completed; and the plans, estimates and specifications have been prepared and, as required, submitted to the Federal Highway Administration (FHWA) for its approval.

5. The only interest of the State in the project is in the acquisition of federal funds for the use and benefit of the Town by reason of federal law and regulations under which funds for the project are authorized to be expended.

6. The Town, in order to obtain federal funds for the construction of the project, is willing to provide the State with the Town funds to match federal funds in the ratio required or as finally fixed and determined by FHWA.

7. The work embraced in this agreement and the estimated cost are as follows: Grade, drain and pave.

|  |                |
|--|----------------|
| Estimated Project Cost (include. 15% CE) | \$ 364,016.00  |
| Federal Aid Funds (MAG CAP)              | \$ 240,000.00  |
| Town of Guadalupe Funds                  | \$ 124,016.00  |
| Five percent (5%) surcharge              | \$ 15,167.00   |
| Total Town Funds                         | \$ 139,183.00* |

\* This includes a 5% surcharge on the total cost as per Local Government Engineer memo of October 1991.

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

## II. SCOPE OF WORK

1. The State shall submit a program containing the aforementioned project to FHWA with the recommendation that it be approved for construction.

a. If such project is approved for construction by FHWA and the funds are available for construction of the project, the State with the aid and consent of FHWA will proceed to advertise for, receive and open bids, and subject to the concurrence of FHWA and the Town, award the contract, enter into a contract with a firm to whom the award is made for the construction of the project, such project to be performed, completed, accepted and paid for in accordance with the requirements of the Standard Specifications for Road and Bridge Construction of the Highways Division, Arizona Department of Transportation. Further, the State will enter into a Project Agreement with FHWA covering the work embraced in said construction contract and will request the maximum federal funds available.

b. Should unforeseen conditions or circumstances increase the cost of said work required by a change in the extent or scope of the work called for in this agreement, the State shall not be obligated to incur any expenditure in excess of the amount of the Town's deposit unless and until so authorized in writing by the Town.

2. Prior to the solicitation of bids, the Town shall deposit funds with the State in the amount determined by the State to be necessary to match federal funds in the ratio required. Upon completion of the construction contract, the State shall return to the Town any part of the funds deposited by the Town remaining after Town's pro rata share of the cost, as finally fixed and determined by FHWA, has been paid.

3. The Town shall acquire, without cost to the State, the necessary right-of-way and hereby certifies that all necessary rights-of-way have been acquired.

4. The Town shall remove from the proposed right-of-way all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the roadway, and hereby certifies that all obstructions and encroachments have been removed therefrom, prior to the start of construction.

5. The Town shall not permit or allow any encroachments, except those authorized by permit, upon, or private use of, the right of way. In the event of any unauthorized encroachment or improper use, the Town shall take all necessary steps to remove or prevent any such encroachment or use; failing in which the State shall have the right to proceed with the removal or prevention thereof, the cost of such removal or prevention to be borne by the Town.

6. Upon completion of construction, the Town shall provide for, at its own cost and as an annual item in its budget, proper maintenance, including, but not limited to, signs, and markings necessary for the purpose of regulating, warning and guiding traffic, all in accordance with the requirements of the current edition of the Manual on Uniform Traffic Control Devices for Streets and Highways.

### III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this agreement. The Town assumes full responsibility for the design, plans, specifications, reports, the engineering in connection therewith and the construction of the improvements contemplated, cost over-runs and construction claims. It is understood and agreed that the State's participation is confined solely to securing federal aid; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the Town and that the Town hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the Town, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation and attorneys' fees.

2. The cost of the design, construction and construction engineering work covered by this agreement is to be borne by FHWA and the Town, each in the proportion prescribed or as fixed and determined by FHWA as stipulated in this agreement. Therefore, the Town agrees to furnish and provide State with Town funds in an amount equal to the difference between the total cost of the work provided for in this agreement and the amount of federal aid received.

3. This agreement shall remain in force and effect until completion of the work herein embraced; provided, however, that any provisions in this agreement for maintenance shall be perpetual.

4. This agreement shall become effective upon filing with the Secretary of State.

5. This agreement shall be cancelled in accordance with Arizona Revised Statutes Section 38-511.

6. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this agreement.

7. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

8. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Department of Transportation  
Joint Project Administration  
205 S. 17th Avenue - 616E  
Phoenix, AZ 85007

Town of Guadalupe  
Town Manager  
Box 9050 S Avenida del Yaqui  
Guadalupe, AZ 85283

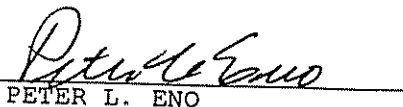
9. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.


TOWN OF GUADALUPE

STATE OF ARIZONA  
Department of Transportation

By   
ANNA HERNANDEZ  
Mayor

By   
PETER L. ENO  
Contract Administrator

ATTEST:

By   
ROSEMARY ABELLANO  
Town Clerk 2-22-96

**MINUTES OF THE REGULAR MEETING  
OF THE  
TOWN OF GUADALUPE COUNCIL**

A public meeting of the Town of Guadalupe Council was held Thursday, February 22, 1996, at 7:00 p.m., 9050 South Avenida del Yaqui in the Council Chambers. Present at the meeting were the following members of council:

Mayor Anna Hernandez  
Vice Mayor Frances Osuna  
Councilmember Jesus Osuna  
Councilmember Rosie Gonzales  
Councilmember Socorro Bernasconi  
Councilmember Tomas Alvarez  
Councilmember Darlene Tapia

**Staff:**

Town Manager, Enrique Serna  
Town Attorney, Steve Dagilis  
Town Clerk, Rose Mary Arellano  
Finance Director, Mark Johnson  
Comm. Dev. Coord., Mary Hoy

The following matters were discussed, considered, and decided upon at the meeting.

- A. The meeting was CALLED TO ORDER by Mayor Anna Hernandez.
- B. PLEDGE OF ALLEGIANCE was led by Mayor Anna Hernandez.
- C. ROLL CALL was taken by the town clerk, Rose Mary Arellano.
- D. CONSENT AGENDA - None.
- E. APPROVAL OF MINUTES - January 11th and 25th, 1996.

MOVED by Councilmember D. Tapia to approve the minutes as written.

SECONDED by Vice Mayor Frances Osuna.

MOTION CARRIED.

- F. SCHEDULED PUBLIC APPEARANCES - None scheduled.
- G. DISCUSSION AND POSSIBLE ACTION ITEMS:

- 1. Office of the Sheriff - Monthly Report of Activity  
December, 1995, and January, 1996.

Council briefly reviewed the activity report. No action.

Regular Meeting  
February 22, 1996  
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Councilmember D. Tapia read Resolution 96-02 by title only.

MOTION CARRIED.

5. Rehab Program - Approval of contracts.

No discussion.

MOVED by Vice Mayor F. Osuna to approve the contracts with the builders for the rehab program.

SECONDED by Councilmember J. Osuna.

MOTION CARRIED.

6. Dia de Guadalupe

It was the consensus of the to designate April 14, 1996, to celebrate Dia de Guadalupe.

MOVED by Councilmember R. Gonzales to designate April 14, 1996, as Dia de Guadalupe.

SECONDED by Councilmember D. Tapia.

MOTION CARRIED.

H. COMMENTS FROM THE PUBLIC - None

I. TOWN MANAGER'S REPORT - Mr. Serna briefly reviewed the report.

J. COMMENTS FROM THE COUNCIL - None

K. ADJOURNMENT.

MOVED by Councilmember D. Tapia to adjourn.

SECONDED by Councilmember J. Osuna.

MEETING ADJOURNED.

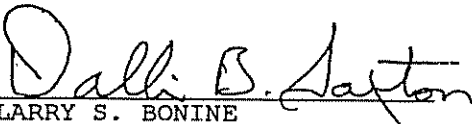
I, Rose Mary Arellano, Town Clerk of the Town of Guadalupe certify that the attached is an accurate transcript of the minutes of the regular meeting of the Town of Guadalupe Council held February 22, 1996, at 7:00 p.m.

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RESOLUTION

BE IT RESOLVED on this 9th day of February 1996, that I, the undersigned LARRY S. BONINE, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, to enter into an agreement with the Town of Guadalupe for the purpose of defining responsibilities for design, construction and maintenance of Avenida Del Yaqui in the Town.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Contract Administrator for approval and execution.

  
for LARRY S. BONINE  
Director

APPROVAL OF THE GUADALUPE TOWN ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION and the TOWN OF GUADALUPE and declare this agreement to be in proper form and within the powers and authority granted to the Town under the laws of the State of Arizona.

DATED this 22nd day of February, 1996.

A handwritten signature in cursive script, appearing to read "Steve C. Dargatzis", is written over a horizontal line.

Town Attorney





STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX 85007-2926

GRANT WOODS  
ATTORNEY GENERAL

MAIN PHONE : 542-5025  
TELECOPIER : 542-4085

INTERGOVERNMENTAL AGREEMENT  
DETERMINATION

A. G. Contract No. KR96-0281-TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. §11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 4th day of March, 1996.

GRANT WOODS  
Attorney General

A handwritten signature in black ink, appearing to read "James R. Redpath", is written over a horizontal line.

JAMES R. REDPATH  
Assistant Attorney General  
Transportation Section

JRR:lsr  
9042G